86 1974

Supreme Court, U.S.
FILED
MAY 14 1987
JOSEPH F. SPANIOL, JR.
CLERK

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

ESSIE ALBERTA EDDINS, Ph. D., R.N.,
Petitioner,
Pro Se,

v.

NEW YORK UNIVERSITY
(SCHOOL OF NURSING),
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ESSIE ALBERTA EDDINS,
Ph. D., R.N.
55 Woodley Road
Buffalo, New York 14215
(716) 837-6862

QUESTIONS PRESENTED FOR REVIEW

1. Whether the matter of timeliness was properly invoked by Respondent and appropriately considered by the District Court and Circuit Court, in view of the continuous and ongoing discrimination from August, 1983 to August 1984?

2. Whether the District Court and Circuit Court erred in denying to Petitioner a trial on the merits in a case involving important public policy issues never before addressed by the courts, namely, inequality of treatment of minority persons in program evaluation by students (not "peer review")?

3. Whether the District Court and Circuit Court erred in not allowing Petitioner to have adjudicated actions of Respondent as to whether they were retaliatory and dilatory?

4. Whether it was incumbent upon Respondent to inform Petitioner of the availability of remedies under Title VII, as part of Personnel Policies?

TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED FOR REVIEW.....	i
OPINION BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED.....	2
STATEMENT OF THE CASE.....	5
ARGUMENT.....	8
CONCLUSION.....	11
APPENDIX I.....	1a
APPENDIX II.....	10a
APPENDIX III.....	14a
APPENDIX IV.....	16a
APPENDIX V.....	36a
APPENDIX VI.....	42a
APPENDIX VII.....	52a

TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS
AND STATUTES:

United States Constitution,
Amendment XIV

28 U.S.C. Section 1254

42 U.S.C. Section 2000e-5(e)
1982

704 A U.S.C. Section 1964

The petitioner, Essie Alberta Eddins, Ph. D., R.N., respectfully prays that a writ of a certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Second Circuit entered on 25 November, 1986.

OPINION BELOW

In an order rendered on July 9, 1986, from the United States District Court for the Southern District of New York (Hon. Gerald L. Goettel) granted appellee New York University's motion to dismiss appellant action brought pursuant to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(e); stating, "Eddins failure to timely file a complaint with the Equal Employment Opportunity Commission (EEOC) requires dismissal of this action." A copy of that judgment and opinion is contained in Appendix I.

On November 25, 1986, the Second Circuit Court of Appeals entered an order affirming Defendant's motion to dismiss. A copy of that judgment and opinion is contained in Appendix II.

On February 18, 1987, the Second Circuit Court of Appeals entered an order, denying petitioner's motion for rehearing and reconsideration. A copy of that judgment and opinion is contained in the Appendix III.

JURISDICTION

The jurisdiction of this Court is invoked under Title 28 United States Code Section 1254.[1]

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitution, Amendment XIV:

---

[1]No other petitioner is involved in this petition.

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 704(a) of the Civil Rights Act of 1964, as amended, and Section 4(d) of the Age Discrimination in Employment Act of 1967, as amended, state:

> It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor

organization to discriminate against any member thereof or applicant for membership, because he has opposed a practice made an unlawful employment practice by this title or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

STATEMENT OF THE CASE

Petitioner, Essie A. Eddins, Ph. D., R.N., was appointed as a faculty member at New York University in September, 1982. The Nursing undergraduate program and faculty at New York University were evaluated by students (not "peer review") in May, 1983. The Nursing program and most faculty members received negative evaluations (Appendix IV). In a memorandum dated September 12, 1983, I was demoted from classroom teaching, and not permitted to teach Nursing Science V, as were the caucasian faculty members; but was assigned to teach only in the clinical area, an assignment usually reserved for graduate Assistants (Appendix V).

I requested a leave of absence as the demotion had compromised my "moral authority" to teach. Because there was ongoing discrimination from September 12, 1983 to August, 1984, petitioner filed with the Equal

Employment Opportunity Commission within the one hundred and eighty day limits.

Respondent has deceptively characterized this as a tenure case. It is not, as I received a Master's degree in Community Health Nursing in 1981; had never taught Community Health Nursing, and was told by Respondent that I had the time allotted under American Association of University Professors Rules (normally six years)--to be reviewed for tenure.

In accepting respondent's characterization of the case as one of tenure, the Court denied the petitioner the opportunity to raise important Public Policy issues in the field of Educational Employment, i.e. when students are dissatisfied with an academic program, will the Black individual be terminated?

Section 704(a) of the Civil Rights Act of 1964 forbids "discrimination against any

(of his) employees...because he has made a charge...under this title." Petitioner has evidence that actions taken by Appointments Promotion and Tenure Committee are in retaliation for a Grievance filed in the Summer of 1982 at the State University of New York at Buffalo (Appendix VI).

Petitioner was misled by administration and Faculty to "follow personnel policies" (Appendix VII). At no time was I advised of my rights under Title VII; nor is there a statement in the Personnel Policies as to the availability of Title VII remedies.

ARGUMENT

The Second Circuit finding that the appellant filed her complaint with the Equal Employment Opportunity Commission sixteen months after receiving notice of termination of employment and the claim is time barred constitutes a denial of ongoing discrimination; of the Equal Protection clause of the XIV Amendment and is in conflict with Amendment XIV of the United States Constitution and Section 704(a) of the Civil Rights Act of 1964.

There was ongoing discrimination from September 12, 1983 to August, 1984. Petitioner filed a complaint pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C., Section 2000e-5 (1982) on December 28, 1984, well within the one-hundred-eighty day period. Thus, the case is not time-barred.

This is not a tenured case. Therefore,

the Courts should not have made an analogy of this case with any cited by the Respondent. Reliance on student evaluation raises questions of soundness of procedure (there was no peer evaluation, such as, e.g., classroom visitation); but when there is a differential in treatment of minorities as over against that accorded to whites, then a dangerous precedent has been set for discrimination against minorities. Student input may well be a part of prescribed procedures. However, in this case, prescribed procedures were not followed.

The Equal Protection clause of the XIV Amendment has yet to be applied in this area of American Education, i.e., when students are dissatisfied with an academic program and many of the professors, will the Black professor be terminated?

Section 704(a) of the Civil Rights Act of 1964 forbids acts of discrimination which

are retaliatory. In addition, the issue of time barred is not applicable (not addressed) under this section. The action taken by the Appointment Promotion and Tenure Committee was to blacklist me from the Nursing profession in retaliation for a Grievance filed, which involved me at the State University of New York at Buffalo.

The Second Circuit Court of Appeal opinions totally ignored the issue of retaliation and refused to enter the evidence they accepted in my dockets. Therefore, I pray the Court consider all the evidence and reverse the decision so that my case can be heard.

In addition, it should be common practice that institutions advise employees of the availability of remedies under the appropriate Federal Statutes, as part of the promulgation of Personnel Policies. Since Faculty and Administration encouraged and

advised me to follow personnel policies I pray that the Court reverse former decisions so that my case can be heard.

CONCLUSION

Continuous and ongoing discrimination, retaliation and dissemination of knowledge are important federal issues. However, the Equal Protection Clause of the XIV Amendment where students evaluate an Educational Program and Faculty and the Black Faculty member is demoted and terminated (after teaching a course only one semester) and the Caucasians having taught more than four years are promoted and retained has never been applied in this area of American Education and addressed by the Court.

Without the granting of certiorari to review this case, a precedent will be set in higher education denying Blacks the Equal Protection Clause of the XIV Amendment in the area of American Education; Blacks (and other

minorities) will perhaps not file as many discrimination cases because of the fear of retaliation; and Institutions will not assume the responsibility of informing employees of their rights, verbally or in written Personnel Policies.

APPENDIX I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - - - - - - - - - - - - - - X

ESSIE ALBERTA EDDINS, Ph.D., R.N., Plaintiff, :

-against- : 86 Civ. 1076 (GLG)

NEW YORK UNIVERSITY (SCHOOL OF NURSING), Defendant. : OPINION

- - - - - - - - - - - - - - - - - X

A P P E A R A N C E S:

ESSIE ALBERTA EDDINS
Plaintiff Pro Se
55 Woodley Road
Buffalo, New York 14215

S. ANDREW SCHAFFER, ESQ.
Attorney for Defendant
70 Washington Square South
New York, New York 10012
By: Terrance J. Nolan, Esq.
Of Counsel

G O E T T E L, D.J.:

The plaintiff, Essie Alberta Eddins ("Eddins"), claims that her employment as an assistant professor of nursing at New York University's School of Education, Health, Nursing, and Arts Professions ("SEHNAP" or "the defendant") was "unfairly terminated" on the basis of her race (Black). She brings this action pro se pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5 (1982). Before the Court is the defendant's motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted or, alternatively, for summary judgment pursuant to Fed. R. Civ. P. 56(b), on the ground that the plaintiff has failed to timely file a charge with the Equal Employment Opportunity Commission ("EEOC").

The plaintiff supplemented her standard form complaint with letters and additional

materials.[1] Since we liberally construe pro se complaints, we deem these materials to be incorporated into the complaint. Accordingly, we will treat the defendant's motion as one to dismiss. We may only grant such a motion if it appears "'beyond doubt that the plaintiff can prove no set of facts in support of [her] claim which would entitle [her] to relief.'" Goldman v. Belden, 754 F.2d 1059, 1065 (2d Cir. 1985) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957) (footnote omitted)). For the reasons stated below, the motion is granted.

Eddins was appointed in September 1982 as a probationary assistant professor of nursing for the academic year 1982-83. She was formally advised by SEHNAP's dean on August 24, 1983 that since it was "highly unlikely" that she would be granted tenure, her employment would terminate one year later. Although Eddins claims that she

immediately instituted grievance procedures within SEHNAP to force reconsideration of its termination decision, she did not file her charge of employment discrimination with the EEOC until December 28, 1984, sixteen months after the alleged discrimination occurred. In New York, failure to file a charge with the EEOC within 300 days of the alleged unlawful employment practice mandates dismissal of a civil action based upon that charge. 42 U.S.C. § 2000e-5(e). See also Mohasco Corp. v. Silver, 447 U.S. 807 (1980) (explaining derivation of the 300 day time period). The limitations period commences to run when the plaintiff employee has notice of the termination of his employment. See Chardon v. Fernandez, 454 U.S. 6 (1981); Delaware State College v. Ricks, 449 U.S. 250 (1980). Since Eddins filed her complaint with the EEOC sixteen months after receiving notice of her termination in August 1983, her

claim is time-barred.[2/]

Eddins, nevertheless, implicitly argues that by pursuing SEHNAP's formal grievance procedure she tolled the running of the limitations period. Until recently the courts were split as to whether such efforts tolled the limitations period. Compare Culpepper v. Reynolds Metals Co., 421 F.2d 888 (5th Cir. 1970) (holding that the limitations period was tolled) with Guy v. Robbins & Myers, Inc., 525 F.2d 124 (6th Cir. 1975) (holding that the filing of a grievance under a collective bargaining agreement does not toll the limitations period for filing a charge with the EEOC). Although several courts of appeal have applied the tolling concept,[3/] the Supreme Court expressly rejected their holdings in International Union of Electrical Workers Local 790 v. Robbins & Myers, Inc., 429 U.S. 229 (1976).

In Electrical Workers, the Court

considered a factual situation similar to the one at bar. Two days after her discharge, the plaintiff in Electrical Workers brought a grievance in accordance with the union's collective-bargaining agreement. The grievance was subsequently denied. The employee failed to timely file a charge of racial discrimination with the EEOC.[4/] The Court held that the plaintiff's efforts to seek a reversal of her employer's termination decision through a formalized grievance mechanism had not tolled the time within which a claim had to be filed with the EEOC. The Court relied on Johnson v. Railway Express Agency, 421 U.S. 454 (1975) and Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974), which affirmed the "independence of Title VII remedies from other pre-existing remedies available to an aggrieved employee." Electrical Workers, supra, 429 U.S. at 236. In those cases, the Court refused to apply

equitable principles to toll the limitations period. Id. Under this unbroken line of authority, an employee who wishes to invoke both Title VII and other grievance procedures must file a complaint with the EEOC within the statutory time period, regardless of his pursuit of other grievance procedures.

In refusing to apply equitable principles to extend the limitations period for filing complaints with the EEOC, the Second Circuit has indicated that it might toll the period for an "uneducated person unfamiliar with the law." Miller v. International Telephone and Telegraph Corp., 755 F.2d 20, 26 (2d Cir. 1985). Eddins, a well-educated individual who holds both Ph.D. and R.N. degrees, can make no such claim. Nor can she claim that SEHNAP caused her to miss the appropriate filing date. SEHNAP never misled Eddins as to the proper EEOC procedures for filing a grievance. Indeed,

it had no reason to do so since the extended proceedings between the parties concerned the quality of plaintiff's teaching abilities, the tenure procedures of the University, and other academic considerations. The claim that plaintiff's services were terminated because of racial discrimination did not surface until she filed her EEOC complaint. See Pfister v. Allied Corp., 539 F. Supp. 224, 227 (S.D.N.Y. 1982) (holding that an employee's participation in private settlement negotiations with her employer does not toll the limitations period for filing a discrimination complaint where there was no allegation that the employer attempted to prevent the employee from filing a timely claim). Although we sympathize with Eddins' position, we can find no basis for extending the filing period on equitable grounds.

Eddins' failure to timely file a complaint with the EEOC requires dismissal of

this action. The defendant's motion to dismiss is hereby granted.

Dated: New York, N.Y.
July 9, 1986

GERALD L. GOETTEL
U.S.D.J.

APPENDIX II

LDP

SDNY
86-CV-1076
GOETTEL

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 25th day of November, one thousand nine hundred and eighty-six.

PRESENT:

HON. WILLIAM H. TIMBERS,
HON. ELLSWORTH A. VAN GRAAFEILAND
HON. LAWRENCE W. PIERCE,

Circuit Judges

ESSIE ALBERTA EDDINS, Ph.D., R.N.,

Plaintiff-Appellant,

-v-

NEW YORK UNIVERSITY
(SCHOOL OF NURSING)

Defendant-Appellee.

ORDER
86-7675

Appeal by Essie Alberta Eddins, pro se, from an order of the United States District Court for the Southern District of New York (Goettel, J.) granting appellee New York University's motion to dismiss her action brought pursuant to Title VII of the Civil Rights Act, 42 U.S.C. § 2000e-5, because she failed to timely file a complaint with the Equal Employment Opportunity Commission ("EEOC").

In New York, failure to file a charge of employment discrimination with the EEOC within 300 days of the alleged unlawful employment practice mandates dismissal of the civil action based upon that charge. 42 U.S.C. § 2000e-5(e). The limitations period commences to run when the employee knows or has reason to know of the termination of her employment. Chardon v. Fernandez, 454 U.S. 6 (1981). Because appellant filed her complaint with the EEOC sixteen months after

receiving notice of termination of her employment, her claim is time-barred. The limitations period is not tolled during the time she pursued grievance procedures, International Union of Electrical Workers' Local 790 v. Robbins & Myers, Inc., 429 U.S. 229 (1976), nor are "extraordinary circumstances" present which would entitle her to equitable tolling, see Cerbone v. International Ladies' Garment Workers' Union, 768 F.2d 45, 49 (2nd Cir. 1985).

Affirmed.

HON. WILLIAM H. TIMBERS,

HON. ELLSWORTH A. VAN GRAAFEILAND,

HON. LAWRENCE W. PIERCE,

Circuit Judges

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

APPENDIX III

UNITED STATES COURT OF APPEALS

for the PRO SE

SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York on the 18th day of February, one thousand nine hundred and 87.

ESSIE ALBERTA EDDINS, Ph.D., R.N., Appellant -v- NEW YORK UNIVERSITY (SCHOOL OF NURSING) Appellees.	86-7675

A motion having been made herein by appellant pro se for reconsideration

Upon consideration thereof, it is Ordered that said motion be and it hereby is denied.

_____

_____

_____

APPENDIX IV

General Program Evaluation

As you recall your experience in the undergraduate nursing courses, Nursing Sciences IA through V (excepting elective core practicum), to what extent do you agree or disagree with the following statements:

Item	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
1. New York University School of Nursing met with your expectations.	8(1)	17(2)	42(5)	33(4)
2. The faculty as a whole are sensitive to students' needs and concerns.	____	25(3)	50(6)	25(3)

General Program Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
3. Your expectations regarding hospital experiences were met.	_____	9(1)	18(2)	73(8)
4. Training in the area of clinical skills was adequate for independent practice as a professional nurse.	_____	18(2)	18(2)	64(7)
5. Your exposure to practical training in the hospital setting was adequate.	_____	9(1)	36(4)	55(6)
6. Adequate training in nursing skills using on-campus				

General Program Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
laboratory facilities was provided.	9(1)	____	55(6)	36(4)
7. Faculty effectively followed your clinical progress through each semester by responding to areas in need of improvement.	____	18(2)	27(3)	55(6)
8. Faculty was sensitive to and supportive of your professional growth.	9(1)	18(2)	55(6)	18(2)

Nursing education taught at New York University is based on Nursing Science Theory as proposed by Martha Rogers.

General Program Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
9. Nursing Science Theory is based on clear, logical, scientific principles.	8(1)	17(2)	42(5)	33(4)
10. You have found Nursing Science Theory applicable to the practice of professional nursing.	___	25(3)	50(6)	25(3)
11. Professors demonstrate a clear understanding of Nursing Science Theory.	___	8(1)	25(3)	67(8)
12. Other theories of nursing were explored as possible				

General Program Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
alternatives to Nursing Science Theory.	____	____	25(3)	75(9)
13. You feel that your years at NYU School of Nursing prepared you for practice as a professional nurse.	8(1)	25(3)	42(5)	25(3)
14. You would recommend this program to perspective nursing students.	____	17(2)	25(3)	58(7)

Independent Student Course Evaluation

Course: Nursing Science III Professor: Patricia Hurley

Number: E41.1257

Please respond to each item by checking below to indicate your level of agreement or disagreement.

Item	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
1. Lectures met your expectations.	____	8(1)	25(3)	67(8)
2. Lectures were presented in a clear and concise manner.	____	8(1)	42(5)	50(6)
3. Lectures were interesting and thought-provoking.	____	8(1)	33(4)	58(7)
4. Lectures supplemented material presented in texts.	____	25(3)	42(5)	33(4)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
5. Lecture content was relevant to nursing practice.	____	18(2)	36(4)	45(5)
6. Physiology of disease as relates to nursing was adequately explored.	____	17(2)	33(4)	50(6)
7. Pharmacology as relates to drug administration was adequately explored.	____	8(1)	25(3)	67(8)
8. Theoretical principles presented in lecture could be related to clinical experience.	____	____	50(6)	50(6)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
9. Learning through lecture material was high.	____	8(1)	33(4)	58(7)
10. Course objectives as stated were met.	____	25(3)	50(6)	25(3)
11. Assigned papers were relevant to course material.	____	25(3)	33(4)	42(5)
12. Lectures encouraged student participation.	____	17(2)	33(4)	50(6)
13. Exams reflected lecture materials.	____	25(3)	50(6)	25(3)
14. Exams reflected required readings.	____	33(4)	50(6)	18(2)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
15. Professor appeared knowledgeable in area of expertise.	____	10(1)	60(6)	30(3)
16. Professor appeared secure in clinical setting.	____	Not Applicable		
17. Professor was effective in reducing student anxiety.	____	8(1)	58(7)	33(4)
18. Professor provided leadership.	____	8(1)	42(5)	50(6)
19. Professor was a positive role model.	____	8(1)	33(4)	58(7)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
20. Professor exhibited professional behavior in class setting.	_____	25(3)	42(5)	33(4)
21. Professor effectively transmitted knowledge to student.	_____	8(1)	25(3)	67(8)

Independent Student Course Evaluation

Course: Nursing Science IV Professor: Selwa Makarem

Number: E41.1258

Please respond to each item by checking below to indicate your level of agreement or disagreement.

Item	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
1. Lectures met your expectations.	8(1)	25(3)	33(4)	33(4)
2. Lectures were presented in a clear and concise manner.	____	8(1)	42(5)	50(6)
3. Lectures were interesting and thought-provoking.	____	42(5)	17(2)	42(5)
4. Lectures supplemented material presented in texts.	8(1)	42(5)	33(4)	17(2)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
5. Lecture content was relevant to nursing practice.	17(2)	50(6)	17(2)	25(3)
6. Physiology of disease as relates to nursing was adequately explored.	25(3)	33(4)	17(2)	25(3)
7. Pharmacology as relates to drug administration was adequately explored.	____	33(4)	42(5)	25(3)
8. Theoretical principles presented in lecture could be related to clinical experience.	____	25(3)	33(4)	42(5)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
9. Learning through lecture material was high.	8(1)	42(5)	____	50(6)
10. Course objectives as stated were met.	8(1)	42(5)	25(3)	25(3)
11. Assigned papers were relevant to course material.	____	33(4)	42(5)	25(3)
12. Lectures encouraged student participation.	____	25(3)	50(6)	25(3)
13. Exams reflected lecture materials.	8(1)	17(2)	50(6)	25(3)
14. Exams reflected required readings.	____	42(5)	33(4)	25(3)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
15. Professor appeared knowledgeable in area of expertise.	25(3)	25(3)	17(2)	33(4)
16. Professor appeared secure in clinical setting.	9(1)	36(4)	27(3)	27(3)
17. Professor was effective in reducing student anxiety.	_____	_____	33(4)	67(8)
18. Professor provided leadership.	_____	33(4)	17(2)	50(6)
19. Professor was a positive role model.	_____	25(3)	33(4)	42(5)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
20. Professor exhibited professional behavior in class setting.	____	50(6)	25(3)	25(3)
21. Professor effectively transmitted knowledge to student.	____	33(4)	33(4)	33(4)

Independent Student Course Evaluation

Course: Nursing Science V Professor: Essie Eddins

Number: E41.1259

Please respond to each item by checking below to indicate your level of agreement or disagreement.

Item	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
1. Lectures met your expectations.		8(1)	25(3)	67(8)
2. Lectures were presented in a clear and concise manner.		8(1)	50(6)	42(5)
3. Lectures were interesting and thought-provoking.			42(5)	58(7)
4. Lectures supplemented material presented in texts.		50(6)	33(4)	17(2)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
5. Lecture content was relevant to nursing practice.	____	17(2)	67(8)	17(2)
6. Physiology of disease as relates to nursing was adequately explored.	____	8(1)	25(3)	67(8)
7. Pharmacology as relates to drug administration was adequately explored.	____	____	33(4)	67(8)
8. Theoretical principles presented in lecture could be related to clinical experience.	____	17(2)	33(4)	50(6)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
9. Learning through lecture material was high.			42(5)	58(7)
10. Course objectives as stated were met.			67(8)	33(4)
11. Assigned papers were relevant to course material.		33(4)	42(5)	25(3)
12. Lectures encouraged student participation.		8(1)	50(6)	42(5)
13. Exams reflected lecture materials.				
14. Exams reflected required readings.		Not Applicable		

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
15. Professor appeared knowledgeable in area of expertise.	8(1)	8(1)	67(8)	17(3)
16. Professor appeared secure in clinical setting.	8(1)	____	58(7)	33(4)
17. Professor was effective in reducing student anxiety.	____	25(3)	42(5)	33(4)
18. Professor provided leadership.	8(1)	8(1)	50(6)	33(4)
19. Professor was a positive role model.	9(1)	____	45(5)	45(5)

Independent Eval. (cont.)	Strongly Agree	Agree	Dis-Agree	Strongly Disagree
20. Professor exhibited professional behavior in class setting.	8(1)	25(3)	42(5)	25(3)
21. Professor effectively transmitted knowledge to student.	____	____	67(8)	33(4)

New York University
A private university in the public service
School of Education, Health, Nursing and Arts Professions
Division of Nursing
429 Shimkin Hall
Washington Square
New York, N.Y. 10003 September 12, 1983
Telephone: (212) 598-3921

To: Patricia Winstead-Fry, Ph. D., R.N
Head, Division of Nursing

From: Essie A. Eddins, Ph. D., R.N.
Assistant Professor, Nursing

You have assigned the course I have been teaching (E41.1259 Nursing Science V, my area of specialty), and which I was appointed to teach at NYU, to another Faculty member, and have circulated the teaching schedule. This has caused me embarrassment among my peer group and among the students. I am meeting

with you today (September 12, 1983, at 4:00 P. M.) to discuss this issue. In doing so, I will again stress:

1) I have met the objectives of Nursing Science V, E41.1259.

2) In meeting the objectives of Nursing Science V, I followed closely the Topical Outlined as outlined in the Self-Study Report for Continuing Accreditation by the National League of Nursing, February, 1982, Vol. 1, pp. 192-93.

3) I have had no objective evaluation by the chairman of the Undergraduate Division, Tenure Committee, or peer group at NYU to evaluate my teaching. My classroom door has always been open, and I welcome anyone to visit my lectures. I welcome ongoing evaluations by students; however,

no student in Nursing Science V approached me about problem(s) with the course until May 3, 1983 (end of the Semester). Again, I have met the objectives of the course, keeping in mind the importance of meeting the objectives: to

a) provide our students with adequate learning experiences; and

b) keep our accreditation by the National League of Nursing.

Some students indicated a dissatisfaction with Nursing Science V on May 3, 1983. I review my objectives at that time (they had been met), reviewed their comments and expectations when revising my course for Fall, 1983. I submit to you an evaluation which the students made of Dr. Patricia M. Hurley - E41.1259 Nursing Science III and Dr. Selwa Makaren - E41.1258 Nursing Science IV.

Both have been teaching approximately four years at NYU. The students also expressed widespread dissatisfaction with their teaching. However, both continue to teach the courses; and indeed, one has recently been promoted.

I also brirg to your attention the survey I completed during the summer (1983), and encourage you to bring this before the Faculty and consider using an objective way of evaluating classroom teaching:

1) Team teaching
2) Taping lectures
3) Classroom visits by Tenure committee, Division Chair, and Dean
4) Evaluations from students at mid-term and final; and
5) Formal orientation (curriculum workshop) for new faculty members

at the beginning of the school year.

An objective evaluation is particularly needed at New York University, as within the last five years, enrollment has declined more than fifty per cent (50%)*

Again:

1) I have met the objectives of Nursing Science V.

2) I have not had an objective evaluation of my classroom teaching.

3) I am not resigning my position.

* Declined in Undergraduate Program under Leadership of former Dean-yet no objective way of evaluating teaching. Objective evaluation is also a tool for Curriculum change.

4) I request of you to consider the inequality of demoting me after one semester of teaching when I received an evaluation from students similar to that received by two teachers who have been teaching the same content for four years.

5) I encourage you to consider an objective evaluation for your Faculty.

6) I am not resigning my position, and will not work in the role of assistant to another professor, as do the graduate students.

cc: Welfare committee- Division of Nursing.

APPENDIX VI

STATE UNIVERSITY OF NEW YORK AT BUFFALO

R E C E I V E D

APR 19 1982

OFFICE OF AFFIRMATIVE ACTION

STATE UNIVERSITY OF NEW YORK

CHARGE OF DISCRIMINATION

This form is to be used to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR MARITAL STATUS

CAMPUS SUNY/Buffalo

(PLEASE PRINT OR TYPE)

1. Your Name Berkley B. Eddins Phone No. (716) 636-2401

Campus Address 672 Baldy Amherst Status Faculty

Home Address 4547 Chestnut Ridge Road

City Williamsville State New York Zip Code 14221

---

2. ALLEGED DISCRIMINATION WAS BASED ON:

Race or Color [x] Religion [ ] National Origin [ ] Sex [ ]

Age [ ] Disability [ ] Marital Status [ ]

3. (a) Have you filed this charge with a Federal, State or Local government agency?

Yes [ ] When _____ No [x]
Month Day Year

(b) Have you instituted a suit or court action on this charge?

Yes [ ] When _____ No [x]
Month Day Year

Alleged discrimination took place on or about

Month April Day 19 Year 1982

Check here if alleged discrimination is continuing xx

444a

5. Describe briefly the act which occurred and your reason for concluding that it was discriminatory (Use extra sheet if necessary)

I claim that the State University of New York at Buffalo pursues a discriminatory policy with respect to the hiring of Faculty couples, in that, in contrast to the situation for Caucasians, there is no

Black Faculty couple where the spouse, in particular, the wife of a Faculty member, occupies a position of tenure, or a position leading to tenure, as Faculty or Librarian. In fact, in my own department, Philosophy, there are three Faculty couples, each of whose members holds such an appointment. At least two of these appointments (and many throughout the University) were made with special consideration to the family. Such a situation of no Black Faculty couple is not merely anomalous; - it is discriminatory.

it is not my intent to engage in odious and invidious comparisons. But the matter of comparability of preparation, credentials, and experience, in the case of my spouse, Essie A. Eddins, is especially pertinent, and serves to dramatize the injury which has been, and is being, perpetrated, together with its adverse consequences for the Black family structure.

As a Black Faculty person, I charge that there is, and has been, a denial of substantive due process, and that I have been personally affected by it.

6. I swear and affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date April 19, 1982 Berkley B. Eddins

State University of New York at Buffalo

Office of Affirmative Action

June 11, 1982

MEMORANDUM

TO: Professor Berkley Eddins

Department of Philosophy

FROM: Malcom A. Agostini

RE: Phase I Report: Discrimination Complaint

The attached charts show, as of May 1982, the distribution of married couples on state and research personnel data records for the State University of New York at Buffalo (SUNYAB). As agreed, the material submitted is regarded as a Phase 1 finding relating to the discrimination complaint filed by you on April 19, 1982. I have drawn no conclusions related to your charge from this report, which is

presented for your information and study. Based on our discussions, should you conclude that the data warrant further study in the context of your complaint, you will contact me to begin discussions aimed at gathering additional information.

MAA:jl

Attachment

548 Capen Hall Amherst Campus Buffalo, New York 11260

CHART I

Showing Members of SUNYAB Married Faculty Couples on State or Research Foundation Payrolls, May 1982

	Total	Black	Hispanic	Asian	White
One or both appointed to a volunteer position	64	1	2	15	46
Hired on same date or within one year of each other	16*	0	0	1	15*
Hire date is more than one year apart	20	1	0	1	18
TOTAL	100	2	2	17	79

CHART II

Showing Distribution by Faculty or Schools

Not Within the Faculty Structure

One or both appointed to a volunteer position

	Total	Black	Hispanic	Asian	White
Health Sciences	50	1	2	14	33
Social Sciences	2	0	0	0	2
Biological Sciences	1	0	0	0	1
Outside of same Faculty structure	11	0	0	1	10
TOTAL	64	1	2	15	46

Hired on same date or within one year of each other

	Total	Black	Hispanic	Asian	White
Health Sciences	7*	0	0	0	7*
Social Sciences	2	0	0	0	2

CHART II (continued)

	Total	Black	Hispanic	Asian	White
Nat. Sciences & Math	1	0	0	0	1
Management	2	0	0	1	1
Outside of same Faculty Structure	4	0	0	0	4
TOTAL	16	0	0	1	15

Hire date is more than one year apart

	Total	Black	Hispanic	Asian	White
Health Sciences	6	0	0	1	5
Social Sciences	1	0	0	0	1
Arts & Letters	1	0	0	0	1
Libraries	1	0	0	0	1
Outside of same Faculty structure	11	1	0	0	10
TOTAL	20	1	0	1	18

* One couple is mixed, one being an Asian minority.

APPENDIX VII

New York University

A private university in the public service

Office of the Provost and

Executive Vice President for Academic Affairs

Elmer Holmes Bobst Library

70 Washington Square South

New York, N.Y. 10012

August 24, 1983

Dr. Essie A. Eddins, R.N.

Assistant Professor, Nursing

School of Education, Health, Nursing,

and Arts Professions

Division of Nursing

429 Shimkin Hall

Washington Square

New York, N.Y. 10003

Dear Dr. Eddins:

This note is to acknowledge receipt of your letter of August 20, 1983 to Provost Oliva.

The Provost is on vacation at this time; however, I am sending your request for information regarding the role of the ombudsman in SEHNAP to Dr. Robert Burnham, Dean of the School.

I am certain that you will be hearing from him or someone in his area shortly.

Sincerely,

Debra James

Executive Assistant

to the Provost

DJ:gjc

cc: Dean Burnham

(with copy of Dr. Eddins' correspondence)

Appendix-G-2

New York University

A private university in the public service

School of Education, Health, Nursing and Arts Professions

Office of the Associate Dean for Personnel

42 Press Building

New York, N.Y. 10003

Telephone: (212) 598-7638

August 29, 1983

Professor Essie Eddins

4547 Chestnut Ridge Road

Apartment #207B

Williamsville, New York 14221

Dear Professor Eddins:

Dean Griffiths has asked me to respond to your letter of August 15, 1983 regarding your intention to initiate grievance procedures against the School of Education, Health, Nursing and Arts Professions Ombudsperson and the Tenure Committee of the Division of Nursing. He has asked me to call

your attention to the SEHNAP Faculty Personnel Policies handbook which sets forth the manner in which Faculty Grievance Procedures are initiated. I call you attention to Pages 29 to 36 of the handbook describing the guidelines and the formal Steps of SEHNAP's Grievance Procedures. Please note on Page 30, that the Secretary of the Faculty, Professor Isabella Lee, is responsible for handling all administrative details in relation to a grievance including "notification, scheduling of meetings..." etc. Page 31 identifies and describes Step 1 which calls for an informal conference between the grievant and the superordinate against whom s/he wishes to make a complaint. Professor Lee has been on vacation. I will refer your letter to her upon her return next week.

The New York University Handbook sets forth on Pages 181 to 184 the University

procedures to be followed after a decision is reached within the School if further appeal is to be made. I am enclosing copies of the pertinent pages cited from both the SEHNAP and University handbooks for your information.

Please be advised that I am available to meet with you to discuss the procedures cited above and assist you in this matter.

Very truly yours,

W. Gabriel Carras

Associate Dean for

Personnel

WGC:jr

cc: Provost L. Jay Oliva

Dean Daniel E. Griffiths

Dean-Designate Robert A. Burnham

Vice Dean Elmer E. Baker, Jr.

Professor John Maynard, Chairperson

cc: (cont.)

Faculty Council

Professor Isabella Lee

Chairperson Faculty Welfare Committee

Appendix G-3

New York University

A private university in the public service

Academic Appointments

Office of the Director

Elmer Holmes Bobst Library

70 Washington Square South

New York, N.Y. 10012

Telephone: (212) 598-2318

March 18, 1985

MEMORANDUM TO: Dr. Essie A. Eddins

FROM: Jo Seelmann, Director

This is to acknowledge receipt of your letter to Chancellor Oliva dated December 14, 1984 regarding your desire to appeal the denial of your grievance.

In accordance with the University's Faculty Grievance Procedures, the Dean is being notified that you have filed an appeal. Your appeal will be processed in accordance with the procedures and you will be advised

in due course of the next steps.

The attached memorandum of March 14, 1985, to the Chairperson of the Faculty Council Grievance Committee, is hereby sent to you for your information.

JS:pa

Attachment

cc: Dean Robert A. Burnham

Professor Nathanial Goldrich

Chancellor L. Jay Oliva

New York University

A private university in the public service

Provost and Executive Vice President for Academic Affairs

Elmer Holmes Bobst Library

70 Washington Square South

New York, N.Y. 10012

October 26, 1983

MEMORANDUM TO: Assistant Professor Essie A. Eddins

FROM: L. Jay Oliva

This is to acknowledge receipt of your October 10, 1983 memorandum to President Brademas. It is our understanding that you will be advised by the Dean's Office of your school that, in accordance with the Faculty Grievance Procedure of the University (Faculty Handbook 1982 edition pp. 181 et seq.), your case should be considered at a

hearing held by a grievance committee of the school.

LJO:pa

cc: Dean Robert A. Burnham

New York University

Interdepartmental Communication

Office of the Faculty Secretary

55 Press Building

October 27, 1983

Professor Essie Eddins

Division of Nursing

429 Shimkin Hall

Dear Professor Eddins:

As provided for in the Grievance Procedures of the School of Education, Health, Nursing, and Arts Professions, if the complainant is dissatisfied with the decision at Step #1 the complainant may move to Step #2.

Having received a copy of the letter that you sent to President Brademas, I wish to remind you that our School procedures must be followed before your grievance is reviewed at the University level. As Faculty Secretary, I am enclosing a copy of the

Lee to Eddins

Page 2

Grievance Procedures for your referral.

Respectfully yours,

Isabella lee

Faculty Secretary

IL:lc

cc: Professor John Maynard, Chair, Faculty Council

Professor Margot Ely, Chair, SEHNAP Faculty Welfare Committee

Professor Patricia Winstead-Fry, Division Head, Division of Nursing